

<p style="text-align: right;">Page 169</p> <p>1 correct? You are assuming the door was swinging?</p> <p>2 A The door is swinging because the boat is moving.</p> <p>3 It's always movement. There is always movement.</p> <p>4 It's never static unless you are ashore on drydock</p> <p>5 without any kind of sea running at all. If you are</p> <p>6 on the ocean, it's moving.</p> <p>7 Q You are assuming that the door was moving more than</p> <p>8 the amount of slack in the chain?</p> <p>9 A I'm assuming that that happened because it came</p> <p>10 taught. Now if there was more slack in the chain or</p> <p>11 the door had not moved or the boat was not rolling,</p> <p>12 then the chain wouldn't have come taught. Something</p> <p>13 had to make the chain come taught.</p> <p>14 Q One of the things would have been that the wire has</p> <p>15 let out?</p> <p>16 A The door moved, one of the things could be, would</p> <p>17 have been if the door moved, the tautness would have</p> <p>18 occurred. So the door moved, it's my opinion that</p> <p>19 the door moved because of the roll of the seaway.</p> <p>20 Q I understand that. You also agree that the door</p> <p>21 could have moved if wire was let out from the main</p> <p>22 winch?</p> <p>23 A If wire was let out from the main winch, the door</p> <p>24 would have moved; not could have moved, would have</p>	<p style="text-align: right;">Page 171</p> <p>1 MR. REGAN: I don't have a secretary.</p> <p>2 I'm not going to stand and copy all this myself.</p> <p>3 MR. ANDERSON: You are going to keep the</p> <p>4 marked ones?</p> <p>5 MR. REGAN: Yes, I suggest we keep it in</p> <p>6 his file. Most of it is his.</p> <p>7 [Telephone interruption]</p> <p>8 MR. REGAN: As far as I remember, David,</p> <p>9 I think every single one of these documents that you</p> <p>10 have marked is from his file with the exception of</p> <p>11 number 7 which is the one that was actually filed in</p> <p>12 court. I'm just suggesting why doesn't he keep</p> <p>13 that, also, so all the exhibits are together. I</p> <p>14 will be happy to make you copies.</p> <p>15 MR. ANDERSON: Why don't you keep them?</p> <p>16 MR. REGAN: Me instead of him?</p> <p>17 MR. ANDERSON: If he is going to take</p> <p>18 them with him now, then give me copies now. You</p> <p>19 keep copies of the exhibits, okay? I want to get</p> <p>20 those tomorrow morning because if we go past</p> <p>21 tomorrow, I'll end up the night before --</p> <p>22 MR. REGAN: What is 4? This is the last</p> <p>23 page of 3.</p> <p>24 THE WITNESS: This is 4, 5, 6, 7, 8.</p>
<p style="text-align: right;">Page 170</p> <p>1 moved.</p> <p>2 Q Are there any other ways in which that door could</p> <p>3 move such that it could take, make the safety chain</p> <p>4 taught other than wire coming out of the main winch</p> <p>5 or the boat rolling and the door swinging away?</p> <p>6 A No.</p> <p>7 MR. ANDERSON: I have nothing further.</p> <p>8 MR. REGAN: Nothing by me.</p> <p>9 MR. ANDERSON: Oh, wait. Before we go</p> <p>10 off, can you look for the draft affidavit; and if</p> <p>11 you have them, I'll have it marked it and if not --</p> <p>12 And we'll get out of here.</p> <p>13 MR. REGAN: This is all of -- How about</p> <p>14 he keeps all of the marked exhibits. 7 might have</p> <p>15 been yours which is the one from the court.</p> <p>16 MR. ANDERSON: Can you run these through</p> <p>17 the copy machine?</p> <p>18 MR. REGAN: I'm not going to do that.</p> <p>19 MR. ANDERSON: I want, these are the</p> <p>20 things that I want.</p> <p>21 MR. REGAN: I understand. I'll get them</p> <p>22 to you tomorrow.</p> <p>23 MR. ANDERSON: You are going to keep</p> <p>24 them?</p>	<p style="text-align: right;">Page 172</p> <p>1 MR. ANDERSON: Are we in agreement that</p> <p>2 you will retain all the copies of all the exhibits,</p> <p>3 correct?</p> <p>4 MR. REGAN: Yes.</p> <p>5 MR. ANDERSON: And you will make me</p> <p>6 copies tomorrow morning?</p> <p>7 MR. REGAN: It's almost six o'clock at</p> <p>8 night and I have a deposition at nine o'clock in the</p> <p>9 morning. I don't think physically I will have an</p> <p>10 ability to get you copies.</p> <p>11 MR. ANDERSON: You will get me copies</p> <p>12 Wednesday at the pre-trial?</p> <p>13 MR. REGAN: I should be able to do that.</p> <p>14 MR. ANDERSON: I don't want a situation</p> <p>15 where they leave your office and --</p> <p>16 MR. REGAN: I think I will hang on to his</p> <p>17 file.</p> <p>18 MR. ANDERSON: Off the record.</p> <p>19 [Whereupon the deposition was</p> <p>20 concluded at 5:40 p.m.]</p> <p>21</p> <p>22 * * * *</p> <p>23</p> <p>24</p>

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WITNESS CERTIFICATE

I, DAVID DUBOIS, certify that I have read the foregoing transcript of my testimony taken on October 2, 2006, and certify that, to the best of my knowledge, said transcript is true and accurate (with the exception of the following corrections):

Page	Line	Corrections
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DAVID DUBOIS

Date

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COMMONWEALTH OF MASSACHUSETTS)

COUNTY OF SUFFOLK)

I, Carole M. Wallace, Certified Shorthand Reporter within and for the Commonwealth of Massachusetts, do hereby certify that I took the deposition of DAVID DUBOIS at the offices of Regan & Kiely, LLP, 88 Black Falcon Avenue, Boston, Massachusetts 02210, on Monday, October 2, 2006, commencing at 1:26 p.m.

I further certify that said witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth, and that the foregoing testimony was taken by me stenographically and is, to the best of my skill and ability, a true record of the testimony of the witness.

I further certify that I am not related to any of the parties hereto or their counsel, and that I am in no way interested in the outcome of said cause.

Dated this 6th day of October 2006.

Carole M. Wallace
Certified Shorthand Reporter

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